PAIRED.

Senator James, present, who would vote *yea*, with Senator Turney, absent—excused, who would vote *nay*,

(Senator Miller in the chair.)

The Chair laid before the Senate, on second reading,

Senate Joint Resolution No. 1, Providing for a convention to frame a Constitution for the State of Texas, with favorable majority and adverse minority committee reports.

Senator Odell moved to substitute the minority for the majority committee report.

Adopted by the following vote:

Yeas—21.

Atlee.	Morriss.
Dibrell.	Neal.
Gough.	Odell.
Greer.	Patterson.
Grinnan.	Potter.
Hanger.	Ross.
James.	Sebastian.
Johnson.	Terrell.
Lloyd.	Wayland.
McGee.	Yantis.
Miller.	

Nays—3.

Davidson.	Yett.
Goss.	

Absent.

Burns.	Linn.
Kerr.	Stafford.
Lewis.	Stone.

Absent—Excused.

Turney.

On motion of Senator Ross the regular order of business was suspended to take up, on second reading,

Senate bill No. 207, A bill to be entit'ed "An Act to amend Articles 2534, 2535, 2536, 2537, 2538, 2539 and 2540, of Title XLIX, of the Revised Civil Statutes of the State of Texas, relating to actions of forcible entry and detainer."

The bill was read a second time, and ordered engrossed.

On motion of Senator Yantis the regular order of business was suspended to take up, on second reading,

Senate bill No. 142, A bill to be entitled "An Act to prohibit any person from charging or taking from another any rate of interest greater than ten per cent. per annum, and to fix a penalty for the violation of the provisions of this act."

The bill was read a second time (in full at request of Senator Odell), and ordered engrossed.

On motion of Senator Dibrell the regular order of business was suspended to take up, on second reading,

Senate bill No. 260, A bill to be entitled "An Act to provide for the establishment, maintenance and government of a State normal school to be located at San Marcos, in Hays county, Texas, and to be known as the Southwest Texas Normal School."

The bill was read a second time.

By Senator Dibrell:

"Amend the bill by adding the following to Section 1:

" 'The fact that there is now no normal school in southwest Texas, and persons preparing themselves for teachers are put to great and unnecessary expense in attending the Sam Houston Normal, thereby entailing a great and unnecessary hardship upon the public school system in the southwest part of the State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.' "

Pending action,

On motion of Senator Davidson, the Senate adjourned until 10 a. m. tomorrow.

FIFTY-THIRD DAY.

Senate Chamber,
Austin, Texas, Friday, March 24, 1899.

Senate met pursuant to adjournment.

President Pro Tem Stafford in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Lloyd.
Burns.	McGee.
Davidson.	Miller.
Dibrell.	Morriss.
Goss.	Neal.
Gough.	Odell.
Greer.	Patterson.
Grinnan.	Potter.
Hanger.	Ross.
James.	Sebastian.
Johnson.	Stafford.
Kerr.	Terrell.
Lewis.	Yantis.
Linn.	Yett.

Absent.

Stone.	Wayland.

Absent—Excused.

Turney.

Prayer by the Chaplain, Rev. Dr. Denson.

Pending the reading of the Journal of yesterday,

On motion of Senator Greer, the same was dispensed with.

EXCUSED.

On motion of Senator Hanger, Assistant Engrossing Clerk J. K. P. Shirley was excused for this week on account of sickness.

Senator Miller moved to excuse Senator Stone for today, on account of important business.

Lost by the following vote (requiring an affirmative two-thirds vote):

Yeas—16.

Atlee.	Linn.
Burns.	Lloyd.
Goss.	Miller.
Grinnan.	Morriss.
Hanger.	Neal.
Johnson.	Sebastian.
Kerr.	Stafford.
Lewis.	Yett.

Nays—11.

Davidson.	Patterson.
Gough.	Potter.
Greer.	Ross.
James.	Terrell.
McGee.	Yantis.
Odell.	

Absent.

Stone.	Wayland.

Absent—Excused.

Turney.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Internal Impovements, which has had under consideration Senate bill No. 193, together with the Governor's message returning the same without his approval, after having given the same due and careful consideration, beg leave to report:

First: As to the first ground of objection urged to said bill, assuming that the Tyler Southeastern Railway Company is a competitor with the St. Louis Southwestern Railway of Texas and the I. & G. N. Railroad, and that the latter two are parts of the same system and practically under one and the same control, we beg to state, that the facts as ascertained are that the line of road now owned by the Tyler Southeastern Railway Company was originally projected and constructed by a corporation known as the Kansas & Gulf Short Line from Tyler, in Smith county, to Lufkin, a distance of 89 60/100 miles. That subsequently the said K. G. S. L. Co. getting into financial difficulties, the ownership of said property passed to the then St. Louis, Arkansas & Texas Railway Company of Texas, which company then owned the property now owned by the St. Louis Southwestern Railway Company of Texas.

That, subsequently, both of the then companies, owners of the property, were put into the hands of a receiver of the United States Circuit Court, and all the property owned by both companies was sold out at one and the same time, and bought in by Louis Fitzgerald as purchasing trustee for the owners. Thereafter he conveyed the property formerly owned by the Kansas & Gulf Short Line to the Tyler Southeastern Company, and the property formerly owned by the St. Louis, Arkansas & Texas Railway Company in Texas to the St. Louis Southwestern Railway Company of Texas, but the stock of these two new companies was then and is now owned by the same parties in the same proportion. Said lines connect only at Tyler, and are not over their own rails competitive between any two points. But they do compete at Tyler with the I. & G. N. R. R. for business at some local points, and with said I. & G. N. road the Tyler Southeastern may compete for Houston business in connection with the H. E. & W. T. R. R. The I. & G. N. road and the St. Louis Southwestern Railway of Texas, are under distinct and different managements and are competitors for business at Tyler.

The St. Louis Southwestern Railway Company of Texas and the Tyler Southeastern road are not competitors for business, but are operated practically in the same interest.

The two companies do not compete at Tyler or elsewhere for any character of business.

Second. As to the objection to said bill on the grounds of the increase of the mortgage indebtedness against the property owned by the Tyler Southeastern company, we would suggest that the facts as shown by the records and reports of the Railroad Commission of Texas are in brief as follows:

The Tyler Southeastern Railway Company has a mileage of 86 60/100. Its outstanding stock is $250,000. Its outstanding bonds are $990,000, making an aggregate of stock and bonds $1,240,000, which is $13,996 per mile.

The St. Louis Southwestern Railway Company of Texas has a mileage of 551 70/100 miles. Its stock is $2,500,000, outstanding. Its pending indebtedness is $14,167,500, making a total of stock

and bonds of $16,667,500, which is $30,211 per mile. The two lines have a total mileage of 640 30/100 miles and a total of outstanding stock and bonds of $17,907,500. (See Seventh Annual Report, Railroad Commission of Texas, page 186.)

The property of the Tyler Southeastern Railway Company has been valued by the Railroad Commission of Texas at $914,748.98. (See Seventh Annual Report, Railroad Commission of Texas, page 201.)

Under the provisions of Section 2, of Senate bill No. 193, the St. Louis Southwestern Railway Company of Texas is only permitted to issue bonds or stock and bonds for the purchase of the property of said company as fixed by the Railroad Commission of Texas, and said additional bonds or stock and bonds so issued can be used by it only for the purpose of taking up the outstanding stocks and bonds of the Tyler Southeastern company. All railroad bonds under the stock and bond law must be issued with the approval of the Railroad Commission of Texas. The Commission before approving such bonds can see that the provisions of this bill are properly complied with and the outstanding stock and bonds of the Tyler Southeastern company cancelled so that the State will be properly protected. If this is done, the stock and bonds of the St. Louis Southwestern Company of Texas, after it purchases the property of the Tyler Southeastern, will be increased by $914,748.98, and will thereafter aggregate $17,582,248.98 on a total mileage of 640 30/100 miles. This would be an actual decrease in the capitalization of the two companies of $325,251.02 below what it is at present.

This being true, and the other facts being as hereinafter stated, we are of the opinion that from the standpoint of the State's interest it is desirable that the bill become a law, because the burdens on the commerce of the State in the way of interest charges and the right, if such right exists, to earn any return on the outstanding stock of the railway company would be lessened and no material interest of the State or any portion thereof would be injured by such consolidation.

Your committee has heretofore given due consideration to these matters and after carefully reviewing the same, are of the opinion that the bill should be passed, notwithstanding the objections urged by the governor.

In making this recommendation, we are not unmindful of the constitutional provision prohibiting the consolidation of parallel or competing lines, but we understand that prohibition to be against lines which are in fact competitive, and these lines not being in fact competitive, we recommend that the bill *do* pass.

DIBRELL, Acting Chairman.

Hon. R. N. Stafford, President Pro Tem. of the Senate.

Your Committee on Internal Improvements, to whom was referred the executive message returning Senate Bill No. 154 without approval, make the following report:

The message recommits the bill to the Senate for further consideration upon the sole proposition that the case of the State of Texas vs. The East Line and Red River Railroad Company, 75 Texas, 432-452, is a controlling authority in support of the proposition that the Missouri, Kansas & Texas Railway of Texas and the Sherman Shreveport & Southern Railway are competing lines, and that the purchase or lease by the Missouri, Kansas & Texas Railway Company of Texas of the railroad of the Sherman, Shreveport & Southern Railway Company is therefore forbidden by Section 5, Article X, of the Constitution of the State of Texas.

After an exhaustive and painstaking consideration of that case our conclusion is that the case does not support the proposition that the railroads mentioned in the bill are at the present time competing within the meaning of the constitutional prohibition. The Missouri, Kansas & Texas Railway Company of Texas is the owner of its present lines of railroad through purchase from the Missouri, Kansas & Texas Railroad Company under the Special Act of the Legislature of the State of Texas of April 16, 1891.

The Missouri, Kansas & Texas Railway Company was incorporated on August 28, 1891, and as its articles of incorporation show, among other things, for the purpose of acquiring, owning, maintaining and operating the railroads authorized by tne said Special Act of April 16, 1891, to be sold.

The old East Line & Red River Railroad Company was chartered on the 22nd day of March, 1871, and on the first day of June, 1880, it executed a mortgage to secure the outstanding bonds to the Fidelity Trust and Insurance Company of Philadelphia. Afterwards, on the 28th day of November, 1881, it sold and conveyed its railroad to the Missouri, Kansas & Texas Railway Company. Afterwards, on the —— day of September, 1888, the suit of the State of Texas vs. The East Line & Red River Railroad Company was instituted to forfeit the charter of the company, and forfeiture was decreed. After the final decree of

forfeiture the Fidelity Trust and Insurance Company of Philadelphia intervened in the forfeiture suit and obtained a decree of foreclosure of its mortgage, and under its decree the East Line & Red River Railroad was sold and Henry W. Poor became the purchaser thereof. Subsequently, on the 2nd day of February, 1893, the Sherman, Shreveport & Southern Railway Company was created for the purpose, among other things, of purchasing from the said Henry W. Poor the railroads formerly known as the East Line & Red River Railroad, extending from McKinney in Collin county, to Jefferson in Marion county, and after its incorporation the said Henry W. Poor deeded the said line of railroad to The Sherman, Shreveport & Southern Railway Company. Neither the Missouri, Kansas & Texas Railway Company of Texas, nor the Sherman, Shreveport & Southern Railway Company were in existence until long after the decree of forfeiture. Neither the Missouri, Kansas & Texas Railway Company nor the Fidelity Trust and Insurance Company were parties to the forfeiture suit. It is evident that the decree of forfeiture is not *res adjudicata* upon either the Missouri, Kansas & Texas Railroad Company of Texas or the Sherman, Shreveport & Southern Railway Company, for the title of these companies to the respective railroads are derived through parties who are not in any way concluded by that forfeiture suit. The suit sought a forfeiture upon eight distinct grounds, which are set forth in the first part of the opinion of the court. The Supreme Court in its opinion, says:

The judgment of the court below is based upon the proposition: (1st) that the attempted sale of the railroad was unlawful, and that since its date the respondent has failed to exercise the franchise conferred upon it by its charter; (2nd) that the condition of its road has not been such as to enable it to perform to the public the duties assumed."

The court below made certain findings of fact, among them that the East Line & Red River Railroad and the Missouri, Kansas & Texas Railroad were not parallel, and further: "Disregarding their connections with other roads and lines of transportation the East Line & Red River and the Missouri, Kansas & Texas Railroads were not competing railroads when said sale was made; considered with reference to such connection, they were competing railroads."

The Supreme Court in its decision distinctly held that the sale of the East Line & Red River Railroad by the East Line & Red River Railroad Company to the Missouri, Kansas & Texas Railway Company was void for the want of authority on the part of the one company to buy, and on the part of the other company to sell. It further held that the constitutional prohibition against railroad companies renting, selling, leasing or consolidating with any parallel or competing railroad in this State could not be construed as authority for the sale of one railroad to another railroad company where they were not parallel or competing, but before any sale could be made at all there had to be legislative authority authorizing the one company to sell and the other to buy. The Supreme Court further said in its opinion that the court below found, on evidence that justified it, "that respondent and the corporation to whom it sold were competing lines and the Constitution forbade the sale."

There was testimony in the record of the court below from two or three witnesses to the effect that the roads were actually competing at the time of the sale in 1881. There was no evidence in the record of physical relations of the railroads and their connecting lines, except such as was shown by the map of the State and country. It is entirely clear that the Supreme Court must have referred to this testimony of the witnesses as to competition when it said that the court below found on evidence that justified it that the roads were competing. The connections spoken of by the trial court evidently meant, not physical connections, but business connections. This is manifest, for when the Supreme Court, in its opinion, comes to speak its concurrence with the court below, it says that railways may become competing by reason of their relations, control or management of other lines of railway than their own, and does not say that they do become competing by reason of their physical connections or relations.

There is nothing in the opinion that justifies the conclusion that the Supreme Court held, or intended to hold, that the mere physical relations of the companies with themselves and with their connections, made them competing lines. To have so held would have been to have overruled two decisions of the Supreme Court of the State, viz.: The East Line & Red River Railroad Company vs. Rushing, 69 Texas, 307 et seq., and the G., C. & S. F. Ry. Co. vs. The State, 72 Texas, 404. In the Rushing case, decided in 1887, the Supreme Court held that it might take judicial knowledge of the geography of the State and of the railroads of the State and find that two lines of railroad were parallel, but that they

could not take judicial notice to find that they were competing lines when they were not parallel. In that case the court was speaking of the East Line & Red River Railroad and the Missouri, Kansas & Texas Railroad. In that case the court did take judicial notice that the East Line & Red River Railroad was not parallel with the Missouri, Kansas & Texas Railroad.

In the case of the G., C. & S. F. Ry. Co. vs. The State, the court distinctly held that whether roads were competing was a question of fact, and that where they had two or more common points and where they were parallel the court could take judicial notice of it.

In the Rushing case, the court said:

"It may be that this court, judiciously knowing the geography of the State, may take notice of the general direction of these two roads as fixed by the statute under consideration, and that their lines must necessarily cross each other, and we must, therefore, treat them as connecting lines and not parallel to each other, but as to whether they are competing lines, we can have no judicial knowledge whatever."

In the G., C. & S. F. Ry. Co. case the court quoted with approval the language just cited, and said:

"This latter proposition as a general rule, and as applied to the case then before the court, is undoubtedly correct. Whether two roads which intersect each other at a certain point are competitors for freight or not must depend upon a variety of circumstances not known to the court."

This extract shows that the court understood competition to mean business competition.

That was a suit which set aside a traffic association contract. Nearly all the roads of the State were parties to it. The court said that it could take judicial notice that the Houston & Texas Central Railroad runs from Houston to Dallas, and that the G., C. & S. F. Ry. Co. touches with its lines the same points, and that it could take judicial notice that these two roads were parallel and competing, and that it was not necessary for them to find that the other roads in the State were competing.

The three cases just referred to establish conclusively the proposition that the court could not find, simply from the physical and geographical relations, that the East Line & Red River Railroad and the Missouri, Kansas & Texas Railroad were competing roads.

In the East Line forfeiture case the Supreme Court distinctly found that they were not parallel and that they were not competing in and of themselves, and it was only when considered with reference to their connections, relation and control that they were competing, and that fact it said the court below found on evidence which justified it.

The message of the executive, therefore, in a misapprehension of the meaning and effect of the East Line & Red River case. The message distinctly holds that the court, by reason of the physical relations, found that the roads were competing, when a fair interpretation of the opinion, in the light of the two preceding cases, shows that they found exactly to the contrary. The question, therefore, as to whether the Sherman, Shreveport & Southern Railroad and the Missouri, Kansas & Texas Railroad of Texas are competing roads, it being uncontroverted that they are not parallel and not competing in and of themselves, is a question of fact depending upon evidence. The bill under review found that they were not parallel and competing. The Legislature had a right to determine that question, and were required to determine it before they could undertake to pass the law; they would not have passed the law had the roads been parallel or competing. The courts have distinctly held that these roads are not parallel, and that they are not competing in and of themselves, and the Railroad Commission has distinctly told the Legislature that they are not competing. The Sherman, Shreveport & Southern Railroad is simply a prolongation, extension, branch or feeder of the Missouri, Kansas & Texas Railway of Texas, and its stock is owned by the same persons who own the stock of the Missouri, Kansas & Texas Railway Company of Texas.

It is not true, under the authorities, that the question of whether two roads are competing is a question of law and fact. Where they are not parallel, the question of whether they are competing is one of fact to be determined, at least in the first instance, when the Legislature comes to pass a law authorizing the purchase or lease of one company by another. It is a fundamental rule of law that when the Legislature is required to ascertain a fact in order to exercise its power of legislation that it has the right to make inquiry and to determine that fact, and it is true that the highest respect is shown to that finding.

We give immediately below some of the leading authorities as to the rule which the courts impose upon themselves as respecting legislative action determining facts essential to the exercise of legislative power, and we submit that such rule is a wise one, and entitled to the consid-

cation of the executive when he comes to consider a legislative act:

Stevenson vs. Golgan, Supreme Court of California, 14 Lawyers' Reports, Annotated, page 46, delivered 1897, citing Waterloo Woolen Mfg. Co. vs. Shannahan, 128 N. Y., 345.

Rumsey vs. People, 19 N. Y., 41.

Hovey vs. Foster, 118 Ind., 502.

Lusher vs. Scites, 4 W. Va., 11.

DeCamp vs. Eveland, 19 Barb., 81.

People vs. Durstan, 119, N. Y., 569, L. R. A., Vol. 7, page 715.

Cass T. Y. P. vs. Dillon, 16 Ohio St., 41.

Franklin vs. State Board of Examiners, 23 Cal., 173.

State vs. Dorsey Co., 28 Ark., 378.

Judson vs. Plattsburg, 3 Dill., 181.

In Re Church, 28 Hun., 476.

In Re N. Y. Elevated Ry. Co., 70 N. Y., 327.

The legislative finding of a fact is respected by the courts whether expressly recited in the act or not, for the courts presume in favor of the constitutional action and rightful disposition of the Legislature and its uprightness of purpose that the facts have been found.

As stated by Judge Cooley in his work on Constitutional Limitations, page 187:

"If the evidence was required (speaking of the act of the Legislature) it must be supposed that it was before the Legislature when the act was passed, and if any special finding was required to warrant the passage of the particular act, it would seem that the passage of the act itself might be equivalent to such finding."

Applying the doctrine of the learned author to the specific bill now under consideration, we say that if there was not the recital in the preamble of the fact that the roads in question are not competing, that the passage of the act without such recital would imply that the Legislature had found that they were not competing, for the courts would not presume that the Legislature had attempted to authorize the purchase of one competing road by another.

Two years ago the Legislature of this State passed an act authorizing the purchase by the Houston & Texas Central Railroad Company of the Waco & Northwestern and the Texas Central Railroads. A glance at the Railroad Commission map of Texas, showing the railroads of the State, and a comparison of these lines with the lines of the Missouri, Kansas & Texas Railway Company of Texas and the Sherman, Shreveport & Southern Railroads, clearly shows that if the former roads were not parallel or competing, the latter roads are not.

The Act of the Legislature of Texas, approved April 16, 1891, which authorized the sale and conveyance of the Missouri, Kansas & Texas Railway Company's railroads in Texas to a corporation to be organized under the laws of the State of Texas, and which was afterwards organized as the Missouri, Kansas & Texas Railway Company of Texas, and which was approved by the Governor, contained the recitals similar to those contained in the bill under consideration. The act is a precedent for the present bill pending to authorize the Missouri, Kansas & Texas Railway Company of Texas to purchase or lease the Sherman, Shreveport & Southern Railroad.

At the same session of the Legislature, in 1891, a general law was passed, being Chapter 86, of the General Laws of 1891, providing for the incorporation of railway companies for the purpose of acquiring, owning, maintaining and operating any line or lines of railway in this State authorized by law to be sold.

Afterwards the Missouri, Kansas & Texas Railway Company of Texas articles of incorporation were prepared and adopted and presented to the Attorney-General for approval, as required by the general laws of the State and were approved. These articles of association were filed for record in the office of the Secretary of State on August 28, 1891. They recite the special Act of the Legislature of the State of Texas authorizing the sale and conveyance of the Missouri, Kansas & Texas Railroad Company's lines of railroad to a corporation to be incorporated under the laws of the State, and say that the corporation is formed for the purpose of purchasing the roads authorized to be sold by the special Act of 1891. The Attorney-General carefully considered said articles of association and appproved the same, saying in his certificate that he found them to conform to the general laws of the State, and that they were not in conflict with the laws of the United States, and considering the legislative interpretation expressed in said special law not in conflict with the laws of the State.

We, therefore, submit that the legislative Act of 1897, approved by the Governor, and the charter of the Missouri, Kansas & Texas Railway Company of Texas, approved by the Attorney-General, are strong precedents in favor of the proposition that the legislative determination of the question of whether roads are competing should be controlling.

We invite your attention to the letter of Hon. John H. Reagan, Chairman of the Railroad Commission, speaking for the Commission, of date May 14, 1897,

addressed to the Governor of the State in answer to an inquiry by the Governor as to whether the Texas Central Railroad is parallel and competing with the Houston & Texas Central Railway. The letter says:

"We have to say that it is not. We send herewith a copy of our latest railroad map, showing the relative positions of these two railroads, from which you will see that they occupy and accommodate the communities of entirely different parts of the State. We presume your inquiry has reference to the bill pending before the Legislature proposing to authorize the Houston & Texas Central Railroad to purchase the Waco & Northwestern Railroad and the Texas Central Railroad. The Waco & Northwestern extends with its connections from the Houston & Texas Central through Waco to Ross, a few miles north of Waco, where it connects with the Texas Central Railroad."

The letter continues:

"While you do not ask us for an opinion as to the effect of a purchase of the Waco & Northwestern and the Texas Central Railroads by the Houston & Texas Central Railroad Company, we have no doubt but that the making of one corporation out of these three roads, they not being parallel and competing lines, is of interest to the public, by dispensing with two sets of officials and securing one line of freight rates instead of taxing them with a higher rate of freight over two or more lines."

We call especial attention to this letter, for upon its strength the former Governor permitted the bill to become a law, and we invite especial attention to the letter because it was presented to a preceding Legislature and acted on by them. It speaks the mature judgment of the Railroad Commission, which, of course, must be a high authority upon the question of fact whether two railroads are competing. The Commission has not only the maps of the railroads of the State before it, but has their tariff sheets and regulates the subject of transportation, and has the contracts existing between connecting lines, and has the best opportunity for knowledge whether two roads are competing.

We submit that a decision as to whether the Missouri, Kansas & Texas Railroad and the East Line & Red River Railroad were not parallel in 1881, nor in themselves competing, but were competing considered with reference to their connections, cannot control the legislative judgment as to whether the lines of the Missouri, Kansas & Texas Railway Company of Texas and the Sherman, Shreveport & Southern Railway Company, as they exist today, are competing. Conditions have changed, the ownership of the railroads has changed, the Railroad Commission has been created, and the Railroad Commission is largely the agency of the Legislature. Under the law creating the Railroad Commission of Texas the Commission has absolute power to fix all freight rates over one or more connecting lines of railroad in the State of Texas. It exercises largely legislative power, and its judgment concurs with the judgment of the House and Senate that as a question of fact existing today these two roads are not competing. The duty of the Legislature is now and here to determine that question according to its best judgment. It cannot be urged that it shows any disrespect to the judicial department. The judicial department, when called upon, will determine the questions according to their own method of procedure. Even if it were a fact that these roads were competing in 1881, that cannot determine the question of whether they are competing today. Indeed, it can have very little bearing upon that question.

As to the proper construction of the recital of facts contained in the preamble of the bill that "the lines of railroad owned and operated by the Missouri, Kansas & Texas Railway Company of Texas, extending into various parts of the State, and the line of railroad owned and operated by the Sherman, Shreveport & Southern Railway Company are not parallel and competing," we would say that the provision does not bear the construction suggested in the message. The bill and the preamble were prepared, and notice of the application to the Legislature for the passage of the bill was given, long before the pending suit at Dallas for the forfeiture of the charter of the Missouri, Kansas & Texas Railway Company was instituted. The compromise legislation of 1891, expressly declares that the lines of the Missouri, Kansas & Texas Railway Company therein mentioned are not parallel and competing, and, therefore, there could be no purpose to make any declaration in the present bill upon that subject. Besides, the bill expressly provides, at the end of Section 4, that nothing in the act shall in any manner affect the pending suit.

As to the suggestion contained in the message that the East Line & Red River Railroad was not included in the Special Act of April 16, 1891, we are advised that on the 12th day of April, 1891, the receiver appointed by the State court in the forfeiture suit against the East Line

& Red River Railroad Company took charge of the property; in June, 1891, the trustee in the mortgage of June 1, 1880, made by the East Line & Red River Railroad Company to the Fidelity Trust and Insurance Company of Philadelphia, intervened in said forfeiture suit and asked a foreclosure of the mortgage; in October, 1891, decree was entered foreclosing the mortgage and ordering the property to be sold. In January, 1892, the railroad was sold under that decree. This sale, however, was set aside by the court, and the receiver, during the year 1892, under the order of the court, changed the gauge of the road from a narrow to a standard guage. In January, 1893, the property was re-sold under the decree of foreclosure, and was purchased by Henry W. Poor. In February, 1893, the Sherman, Shreveport & Southern Railway Company was organized by Mr. Poor and his associates, under the General Laws of the State, and the property was conveyed in March following to the corporation so formed. The title, therefore, of the East Line & Red River Railroad was in such condition at the time of the compromise legislation of 1891, the charter of the East Line & Red River Railroad Company having been forfeited, that it could not be included in that legislation.

In conclusion your committee beg leave to report:

1. The case of the East Line & Red River Railway Company vs. The State of Texas, cited by the executive is not authority for the proposition that this act is unconstitutional.

2. The question as to whether the railways in question are competitive is one of fact depending upon present conditions, and one which is peculiarly within the province of the Legislature to determine.

3. The Railroad Commission, with all the facts before it, has advised that this bill is not within the mischief sought to be prevented by the constitutional provision invoked.

4. The bill under consideration does not stifle, but will create, competition, and that which is now a weak and local highway will become a part of a great system in competition with other great systems of railways in the State, and give a great section of the State direct connection with the markets of the United States.

Believing, therefore, that this bill is subject to no constitutional objection, and that its passage will conserve the best interests of the State, we respectfully recommend that it become a law.

We also submit herewith letters from the Railroad Commission relating to the bill under consideration.

DIBRELL, Acting Chairman.

(Letters.)

RAILROAD COMMISSION OF TEXAS.
Austin, Texas, March 10, 1899.

Governor Joseph D. Sayers, Executive Office.

DEAR SIR: Complying with your request of the 9th inst., submitting Senate bill No. 154 for our consideration, and asking our opinion with reference thereto, we beg to reply as follows:

1. The bill authorizes the Missouri, Kansas & Texas Railway Company of Texas to purchase, own and operate as its own the Sherman, Shreveport & Southern Railway, and to extend the road from Jefferson east to the State line, there to connect with some Louisiana line, and to lease said Louisiana line running to Shreveport, Louisiana.

2. If this bill is to become a law it seems to be as well guarded as possible to protect the State and public. The right of the State to prosecute pending suits or to bring others is expressly guarded in Section 4. The indebtedness of the roads cannot be increased, nor is any right of the State waived. The question as to whether the provision to authorize the leasing of an outside road, without limitation as to time or life of the lease, may be more properly referred to the Attorney-General, and we express no opinion as to that section, except to say that we see no objection to it if constitutional.

3. This Sherman, Shreveport & Southern Railway was once the East Line & Red River Railroad, and it runs from McKinney, in Collin county, through Greenville, Sulphur Springs and Pittsburg to Jefferson, as shown by the blue line on the railroad map prepared in this office, a copy of which you have. The Missouri, Kansas & Texas Railway of Texas has a branch line running from Denison, through Greenville, to Mineola, as shown by the green line on said map. They cross each other at Greenville.

4. If these lines are either parallel or competing in the sense of Section 5, Article 10, of the Constitution, the bill should not become a law, and as to whether they are either parallel or competing or not, is a question of fact, and in this connection we call your attention to the map, the green line showing the entire line of the Missouri, Kansas & Texas of Texas, with the various connections of both roads. We have not thought them either parallel or competing. Our

construction of Section 5 of Article 10, of the Constitution is that the competition there referred to meant roads which compete for freight at the same point, which freight is destined to a common point. That is, we do not believe that the competition between the St. Louis Southwestern Railway at Waco with the Houston & Texas Central Railroad at the same point, where one road seeks to carry cotton to St. Louis, and the other seeks to route it to Galveston or New Orleans, is the kind of competition referred to in that section of the Constitution forbidding competing lines to consolidate. But in the sense of the Constitution we do believe that the Houston & Texas Central Railroad and the Missouri, Kansas & Texas Railway of Texas, for cotton originating at Waco or Dallas, and destined to Houston, are both parallel and competing lines, and could not be consolidated.

In this connection, however, it is proper to call your attention to the decision of our Supreme Court in the case of the East Line & Red River Railway Company vs. The State of Texas, reported in the 75 Texas Reports, pages 434-452. On page 442, Chief Justice Stayton said "The court below made findings of facts which were sustained by the evidence." He then gives the facts of that case, and proceeds, on page 446, to say "The court below found on evidence that justified it that respondent and the corporation to which it sold were competing lines," and then adds "The Constitution forbade the sale." In that case the sale had been made to the Missouri, Kansas & Texas Railway Company without an act of the Legislature authorizing it. Since that time the East Line & Red River has passed through the hands of a receiver, and has become the Sherman, Shreveport & Southern Railway, and in this bill the effort is again made to effect its sale to the Missouri, Kansas & Texas Railway Company of Texas.

If the decision of the question now before you, rested alone upon the supplying of an act of the Legislature authorizing the consolidation of these two roads, then that defect has been supplied by this bill. But if the sale was then in fact a violation of Section 5, Article 10, of the Constitution, we cannot see how any act of the Legislature can authorize the consolidation.

If in your judgment the bill does not violate Section 5, Article 10, of the Constitution, we see no objection to the consolidation.

Yours respectfully,
(Signed) L. J. STOREY,
Commissioner.

RAILROAD COMMISSION OF TEXAS.

Austin, Texas, March 11, 1899.

Governor Joseph D. Sayers, Executive Office.

GOVERNOR: I concur in the greater part of the opinion of Commissioner Storey, herewith enclosed to you, in relation to Senate bill No. 154, but do not concur with so much of that opinion as makes it a debatable question as to whether the Missouri, Kansas & Texas Railway of Texas and the Sherman, Shreveport & Southern, formerly the East Line & Red River, railroads are competing lines.

It is inferable from the decision of the Supreme Court of Texas, in the case of the East Line & Red River Railway Company against the State of Texas, 75 Texas, 434, that the court supposed them to be competing lines of road. The Supreme Court, after quoting Article 10, Section 5, of the Constitution, say that:

"The court below found, on evidence that justified it, that respondent and the corporation to whom it sold were competing lines."

This is simply a statement in substance of the conclusion of the trial court on that question. The opinion includes no statement of the facts on which the conclusion was based, nor any reason why they were competing lines. This fact makes an inquiry into the facts on that point reasonable and necessary, if we aim to reach the truth as it should bear on the question affecting the bill under consideration. There were other ample grounds to justify the decision of the court as made on the question then before it, and no question of dispute can grow out of an examination of the facts as to whether these were competing railways.

The Missouri, Kansas & Texas Railway of Texas extends from Denison, on the north boundary of Texas, south to Houston, Texas. The Sherman, Shreveport & Southern Railway extends from Jefferson, Texas, westward to McKinney, Texas, but lacks something over thirty miles of reaching the Missouri, Kansas & Texas Railway at Denton, Texas. An inspection of the railroad map of Texas, which you have, will show you that these two railways run at right angles with each other, and lack thirty miles of connecting.

There is also a branch of the Missouri, Kansas & Texas Railway of Texas extending from Denison in a southeastern direction to Mineola, and crossing the Sherman, Shreveport & Southern Railway at Greenville. An inspection of the railroad map of Texas shows that these

two lines of railway accommodate the commerce and afford transportation for distinctly different parts of the people of the State, and that they do not begin or end at the same points, or run in the same direction, and that they are in no sense competing lines. And there is no pretense that there can be any other ground for stating that these two railways are competing.

I assume that both the Governor and the Commission, when called upon to pass upon constitutional questions affecting the rights of others must meet that responsibility for themselves, and not place it on the shoulders of others. If there could be a doubt as to whether these lines of railway were competing, that doubt would with me be determined in favor of even the loose and unreasoned statement made in the opinion of the court above referred to. But with the patent facts before us it is not possible to assume that these lines of railway are competing in the sense of the Constitution and laws of Texas.

If these lines of railway, under the undisputable facts before us, can be held to be competing, and can so authorize the annulling of their charters, then we can safely assume that there are very few railroads in Texas whose charters cannot be annulled for similar reasons, and it would be difficult to determine how any railroad hereafter to be built in the State could escape a like fate.

Except as to this point I concur with the opinion of Commissioner Storey.

Very respectfully,
(Signed) JOHN H. REAGAN,
Chairman.

RAILROAD COMMISSION OF TEXAS.

Austin, Texas, March 11, 1899.

Hon. Joseph D. Sayers, Governor, Austin, Texas.

DEAR SIR: Referring to your favor of the 9th inst., addressed to the Railroad Commission, accompanied by Senate bill No. 154, and requesting the opinion of the Commission in reference thereto, I beg to say:

The bill was received by the Commission and returned to you during my absence from Austin on official business, and to avoid any possible misapprehension as to my individual opinion as to the constitutionality and wisdom of this bill becoming a law, have deemed it not inappropriate to advise you that I can not agree with the opinions furnished you by the majority of the Commission. Broadly speaking, and without any attempt at detail, it seems plain to my mind that the bill violates both the spirit and the letter of Section 5, Article 10, of the Constitution of this State. That it is against public policy seems to me equally clear. I have so frequently expressed myself with reference to this feature that it would appear unnecessary to amplify further.

Yours truly,
(Signed) ALLISON MAYFIELD,
Commissioner.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Internal Improvements, to whom was referred

Senate bill No. 136, being a bill to be entitled "An Act to amend Articles 4573 and 4574, of the Revised Statutes of the State of Texas, relating to extortion and discrimination by railways, and in addition to the present penalties providing for the forfeiture of charter,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Internal Improvements, to whom was referred

Senate bill No. 237, being a bill to be entitled "An Act on the subject of and relating to railroad crossings, and repealing all laws in conflict therewith,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Internal Improvements, to whom was referred

House bill No. 350, being a bill to be entitled "An Act to require railway companies to receive and transfer all freights coming to them from steamships, steamboats and other water craft and vessels without discrimination for or against any other steamship line, steamboat line, owner or company, or the owner or owners of any other water craft or vessels,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Public Printing, to whom was referred

Senate bill No. 225, being a bill to be entitled "An Act to amend Articles 4220 and 4222, Title 88, of the Revised Civil Statutes of Texas of 1895, relating to public printing and the Printing Board, and the employment of a practical printer and secretary of such board,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

LLOYD, Chairman.

Committee Room,
Austin, Texas, March 24, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

House bill No. 578, being a bill to be entitled "An Act to fix the time for holding the courts in the Fiftieth Judicial District, and to repeal all laws in conflict herewith,'

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, March 24, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

Senate bill No. 281, being a bill to be entitled "An Act fixing the times for holding the terms of court in the Thirty-fourth Judicial District, and to repeal all laws in conflict with this act,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. R. N. Stafford, President Pro Tem. of the Senate.

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred

Senate bill No. 264, being a bill to be entitled "An Act to provide a more efficient system for working the public roads of Lamar county, regulating the fees of officers where convicts serve their time by labor on such public roads, and to repeal all laws in conflict herewith,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

ODELL, Acting Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Public Debts, Claims and Accounts, to whom was referred

Senate bill No. 258, being a bill to be entitled "An Act to provide for the payment to Clarke & Courts the balance due them under printing contract,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

NEAL, Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Stock and Stock-raising, to whom was referred

House bill No. 595, being a bill to be entitled "An Act providing a mode by which horses, mules, jacks, jennets and cattle may be prevented from running at large in the following counties, or in any subdivision of said counties, viz.: Cooke, Bell, Ellis, Montague, Wharton, Fayette, Johnson, Collin, Rockwall, Lamar, Milam, Bexar, Denton, Falls, Navarro, Fannin, Hunt, Tarrant, Grayson, Dallas, Austin and Brazos,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

ATLEE, Acting Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred

House bill No. 621, being a bill to be entitled "An Act to create a more efficient road system for Nacogdoches county, Texas, and making the county commissioners of said county ex-officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and providing for the appointment of road overseers and defining their duties, and for

the working of county convicts upon the roads of said county, and providing for officers' fees and rewards for the capture of escaped convicts, and authorizing the working of county convicts, partly upon the county convict farm, as well as upon the public roads, or partly upon both, in the discretion of the commissioners court, and making provision of act applicable, as far as practicable, to convicts when worked on county farms, and to provide for the summoning of teams for road work, and for an allowance of time for the service of same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act as to Nacogdoches county, and to authorize the commissioners court of Nacogdoches county to create the office of superintendent of public roads and bridges for Nacogdoches county, and defining his duties, and providing for compensation of said superintendent, and prescribing bond to be given by said officer; providing that delinquent poll tax payers shall be subject to three days road duty; providing for the condemnation of any land needed for the widening, straightening, changing or draining of roads; providing for the taking of timber, gravel, earth, stone or other necessary material for the improvement of roads, and giving persons summoned to work on roads the right to be relieved from the discharge of such duty on the payment of specific sums of money herein stipulated,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

Floor report, Odell, Linn, Stafford, Yantis.

ODELL, Chairman.

EXECUTIVE MESSAGE.

(Vetoing Senate bill No. 153.)

The following veto message was received:

To the Honorable, the Senate.

Senate bill No. 153, which is herewith returned without my approval, amends the Reform Act of June 16, 1897, by increasing certain fees of the clerks of the district courts.

The measure referred to, was in pursuance of a pledge made by the Democratic State Convention of August, 1896, and was directly and unreservedly endorsed by the Democratic State Convention of 1898. Having been nominated and elected upon the platform, adopted by the latter convention, and having pledged myself to its faithful support in every particular, I do not feel at liberty to disregard my duty in this respect at this time. Besides, it involves the increase of official fees, to which I am opposed, especially in view of the present condition of the people.

JOSEPH D. SAYERS,
Governor.

BILL SIGNED.

The Chair gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read,

House bill No. 9, "An Act to amend Article 969, Chapter 3, Title XVIII, Penal Code, Revised Statutes of 1895, relating to marriages in cases of seduction."

BILLS AND RESOLUTIONS.

By Senator Potter:

Senate Concurrent Resolution No. 16,

Whereas, This Legislature has now been in session longer than contemplated by the Constitution, or desired, or expected by the people of this State; and

Whereas, The session has been sufficiently long to have transacted all the necessary business before it; and

Whereas, There is abundant time between now and the sixth day of April, 1899, to pass the appropriation and all other necessary bills, if attention is devoted to them, and any effort made to that end; and

Whereas, It is apparent that there is no united effort to complete the work of the session; therefore be it

Resolved by the Senate, the House concurring, that all questions of appropriation and other necessary legislation be given precedence, and that the Twenty-sixth Legislature finally adjourn on the sixth day of April, 1899.

The resolution was read a second time, and

By Senator Greer:

"Amend by striking out the word '*sixth*' and inserting the word '*fifteenth.*'"

By Senator Yantis:

Substitute the amendment:

"Strike out the word '*sixth*' and insert the word '*tenth.*'"

Lost by the following vote:

Yeas—4.

Lloyd.	Stafford.
Odell.	Yantis.

Nays—24.

Atlee.	James.
Burns.	Johnson.
Davidson.	Kerr.
Dibrell.	Lewis.
Goss.	Linn.
Gough.	McGee.
Greer.	Miller.
Grinnan.	Morriss.
Hanger.	Neal.

Patterson. Sebastian.
Potter. Terrell.
Ross. Yett.

Absent.

Stone.

Absent—Excused.

Turney.

The amendment (Greer's) was then adopted by the following vote:

Yeas—19.

Burns. McGee.
Dibrell. Neal.
Goss. Patterson.
Gough. Ross.
Greer. Sebastian.
Hanger. Stafford.
James. Terrell.
Johnson. Yantis.
Linn. Yett.
Lloyd.

Nays—9.

Atlee. Miller.
Davidson. Morriss.
Grinnan. Odell.
Kerr. Potter.
Lewis.

Absent.

Stone. Wayland.

Absent—Excused.

Turney.

The resolution as amended was then lost by the following vote:

Yeas—12.

Greer. Patterson.
James. Potter.
Johnson. Sebastian.
Lloyd. Terrell.
Neal. Yantis.
Odell. Yett.

Nays—16.

Atlee. Kerr.
Burns. Lewis.
Davidson. Linn.
Dibrell. McGee.
Goss. Miller.
Gough. Morriss.
Grinnan. Ross.
Hanger. Stafford.

Absent.

Stone. Wayland.

Absent—Excused.

Turney.

By Senator Patterson:

Whereas, By the treaty of Paris, duly ratified by the Senate, and thereby made a part of the supreme law of the land, sovereignty over the Philippine Islands was conferred upon the United States, thus imposing upon the American people the further responsibility for the establishment and maintenance of a stable and just government over those islands, to the end that life and property should ever be secure; therefore, be it

Resolved by the Senate of the State of Texas, First, that we favor a vigorous prosecution of the war in the Philippines, to the end that the war be brought to a speedy and successful close; second, that we extend to Dewey and Otis, and to the gallant sailors and soldiers of their respective commands our profound thanks for the heroism they displayed in the defense of the nation's flag, and of the nation's honor in the recent engagements at and around Manila, and that we congratulate them upon their brilliant victory in repulsing and overwhelming the insurgent forces at the beginning of the war; third, that we denounce in unmeasured terms that morbid sentimentality and criminal folly which, while the nation's flag is being fired upon and its authority defied, would counsel concessions to the armed enemies of the United States, and the retirement of our forces from the Philippines in the face of an insignificant and contemptible foe.

The resolution was read, and, on motion of Senator Yantis, was referred to the Committee on Federal Relations.

By Senator Lloyd:

Senate bill No. 290, A bill to be entitled "An Act to amend Article 4928 (4584), Title CII, Chpater 4, of the Revised Statutes of 1895, relating to estrays."

Read first time, and referred to the Committee on Agricultural Affairs.

By Senator Atlee:

Senate bill No. 291, A bill to be entitled "An Act to provide against a public calamity afflicting the inhabitants of Webb county, Texas, by relieving the inhabitants and property in said county from the payment of taxes levied for State purposes for the years 1899 and 1900."

Read first time, and referred to the Committee on State Affairs.

By Senator Stafford (by request):

Senate bill No. 292, A bill to be entitled "An Act to amend Article 4513, Title XCIV, Chapter 10, of the Revised Civil Statutes of 1895, relating to exemptions from the operation of the separate coach law of the State of Texas."

Read first time, and referred to Judiciary Committee No. 2.

Call concluded.

SPECIAL ORDER.

The Chair laid before the Senate, on second reading,

Senate bill No. 199, A bill to be entitled "An Act to confer authority on the Pen-

itentiary Board to issue paroles to meritorious convicts, and to make and establish rules and regulations to carry the same into effect," action being on the adoption of the following amendment by Senator Turney:

"Amend by striking out the word 'one-fourth,' in line 14, page 1, and insert in lieu thereof 'one-half.'"

Senator Yantis moved that further consideration of the bill be postponed indefinitely.

Senator Lewis moved to table the motion to postpone.

Carried by the following vote: ..

Yeas—15.

Atlee.	Linn.
Burns.	Miller.
Dibrell.	Morriss.
Goss.	Neal.
Grinnan.	Sebastian.
Hanger.	Stafford.
Kerr.	Yett.
Lewis.	

Nays—13.

Davidson.	Odell.
Gough.	Patterson.
Greer.	Potter.
James.	Ross.
Johnson.	Terrell.
Lloyd.	Yantis.
McGee.	

Absent.

Stone.	Wayland.

Absent—Excused.

Turney.

Action then being on the pending amendment,

Senator Yantis moved a call of the Senate, which was duly seconded and ordered, the following Senators answering to their names:

Atlee.	Lloyd.
Burns.	McGee.
Davidson.	Miller.
Dibrell.	Morriss.
Goss.	Neal.
Gough.	Odell.
Greer.	Patterson.
Grinnan.	Potter.
Hanger.	Ross.
James.	Sebastian.
Johnson.	Stafford.
Kerr.	Terrell.
Lewis.	Yantis.
Linn.	Yett.

Absent.

Stone.	Wayland.

Absent—Excused.

Turney.

Pending business going to the table,

The Chair laid before the Senate, on second reading,

Senate bill No. 260, A bill to be entitled "An Act to provide for the establishment, maintenance and government of a State normal school to be located at San Marcos, in Hays county, Texas, and to be known as the Southwest Texas Normal School," action being on Senator Dibrell's amendment:

"Amend the bill by adding the following to Section 1:

" 'The fact that there is now no normal school in southwest Texas, and persons preparing themselves for teachers are put to great and unnecessary expense in attending the Sam Houston Normal, thereby entailing a great and unnecessary hardship upon the public school system in the southwest part of the State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.' "

The amendment was adopted.

Senator Davidson made the point of order against the consideration of the bill, that in considering the *"Denton Normal Bill,"* San Marcos had sought to be incorporated in said bill, and was voted down by the Senate, and this bill having a similar object in view, could not be considered.

Not sustained.

(Senator Ross in the chair.)

By Senator Davidson:

"Amend by inserting 'Cuero, in DeWitt county' for 'San Marcos, in Hays county,' wherever it occurs in the bill, and add 'Block 50, in said city,' instead of 'Chautauqua Hill,' and to call same the 'Cuero Southwestern Normal School.' "

Lost.

By Senator Yantis:

"Amend by adding at the end of Section 1 the following: 'Provided, no appropriation shall ever be made by the State of Texas to maintain this institution.' "

Lost.

The bill was ordered engrossed by the following vote:

Yeas—14.

Atlee.	Miller.
Burns.	Patterson.
Dibrell.	Potter.
Gough.	Ross.
Hanger.	Sebastian.
Kerr.	Terrell.
Lewis.	Yett.

Nays—10.

Davidson.	McGee.
Goss.	Morriss.
Greer.	Neal.
Grinnan.	Odell.
Lloyd.	Yantis.

Absent.

James.	Stafford.
Johnson.	Stone.
Linn.	Wayland.

Absent—Excused.

Turney.

HOUSE MESSAGE.

The following message was received from the House:

Hall of the House of Representatives,
Austin, Texas, March 24, 1899.

Hon. Jas. N. Browning, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following bills:

House bill No. 459, A bill to be entitled "An Act to amend Articles 308 and 309, Chapter 4, Title V, Code of Criminal Procedure, Revised Statutes, 1895."

Also House bill No. 308, A bill to be entitled "An Act to amend Article 1731, of the Revised Civil Statutes of the State of Texas."

Also that the House has concurred in Senate amendments to House bill No. 710, A bill to be entitled "An Act to create a more efficient road system for Bell county."

The House also respects the request of the Senate, and appoints the following Free Conference Committee on House amendments to Senate bill No. 130: Messrs. Collins, Phillips of Lampasas, Frost, Terrell and Chambers as said committee.

Also Senate bill No. 188, A bill to be entitled "An Act to provide for a uniform method of electing school trustees in independent districts, defining the duties of such trustees in the election of superintendent of schools," with amendments.

Respectfully,
LEE J. ROUNTREE,
Chief Clerk House of Representatives.

IN SENATE.

The above reported House bills were read first time, and referred as follows:

House bill No. 308, to Judiciary Committee No. 1.

House bill No. 459, to Judiciary Committee No. 2.

REGULAR ORDER.

The Chair laid before the Senate, on third reading,

Senate bill No. 83, A bill to be entitled "An Act to amend Articles 5157 and 5159, of the Revised Civil Stautes of the State of Texas, relating to the bonds of tax collectors."

Pending reading of the bill,

On motion of Senator Potter, the regular order of business was suspended to take up, on second reading,

Senate bill No. 231, A bill to be entitled "An Act to allow, authorize and permit any payor or obligor who owes any perchase money or other lien or note secured by real estate to pay the tax in full upon such real estate so securing any such debt, and to charge the owner or holder of any such note or lien upon any such real estate for the pro rata part of the taxes due the State and county where such real estate is situated, according to the value of such real estate assessed by the county assessor or board of equalization, for each year that said note or other lien remains unpaid. And to allow said debtor, payor or obligor on any such note or other lien so secured by real estate a valid and bona fide claim, credit and offset against such note or lien for the full sum that he may have paid such taxes as were due and payable by law upon said note or other lien."

The bill was read a second time (in full at request of Senator Lewis).

By Senator Lewis:

"Amend Section 1, by adding thereto the following: 'Provided, that such note or other evidence of indebtedness secured by lien upon real estate shall not be rendered for taxation.'"

Adopted.

Senator Davidson moved to reconsider the vote by which the amendment was adopted.

Pending action,

Senator Atlee moved that further consideration of the bill be postponed to Tuesday next after call, and that the bill be made special order for that hour.

Carried.

On motion of Senator Odell, the regular order of business was suspended to take up, on second reading,

Senate bill No. 182, A bill to be entitled "An Act to require the city councils or boards of aldermen in each village, town or city in this State that may hereafter be granted a special charter by act of the Legislature to submit such special charter to the qualified voters of such village, town or city, for their approval or rejection, at an election to be held for that purpose, and providing that such

special charter shall be ratified at such election by a majority of the qualified voters participating or voting at such election before such charter can go into effect."

The bill was read a second time.

By Senator Odell:

"Amend by inserting the following, 'or amendments to a special charter' immediately after the words 'special charter,' wherever the same appear in the enacting clause and in Section 1."

Adopted.

Pending further action,

Senator Gough moved to excuse Senator Patterson for the remainder of the week.

Senator Lewis moved that the Senate adjourn until 10 a. m. Monday.

The Senate adjourned until Monday, 10 a. m., by the following vote:

Yeas—14.

Atlee.	Johnson.
Davidson.	Kerr.
Dibrell.	Lewis.
Goss.	Miller.
Greer.	Neal.
Grinnan.	Sebastian.
Hanger.	Yantis.

Nays—13.

Burns.	Odell.
Gough.	Potter.
James.	Ross.
Linn.	Stafford.
Lloyd.	Terrell.
McGee.	Yett.
Morriss.	

Absent.

Stone.	Wayland.

Absent—Excused.

Patterson.	Turney.

FIFTY-FOURTH DAY.

Senate Chamber,
Austin, Texas, Monday, March 27, 1899.

Senate met pursuant to adjournment.

President Pro Tem. Stafford in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Lewis.
Burns.	Linn.
Davidson.	Lloyd.
Goss.	Miller.
Gough.	Morriss.
Greer.	Odell.
Grinnan.	Patterson.
James.	Potter.
Kerr.	Ross.
Sebastian.	Terrell.
Stafford.	Yantis.

Absent.

Dibrell.	Stone.
Hanger.	Turney.
Johnson.	Wayland.
McGee.	Yett.
Neal.	

Prayer by the Chaplain, Rev. Dr. Denson.

Pending the reading of the Journal of Friday,

On motion of Senator Patterson, the same was dispensed with.

(Senator Atlee in the chair.)

EXCUSED.

On motion of Senator Stafford, Assistant Sergeant-at-Arms Hughes was excused for today and tomorrow on account of sickness in his family.

Senator Lloyd moved to excuse Senator Hanger indefinitely on account of sickness in his family.

Lost by the following vote (requiring an affirmative two-thirds vote):

Yeas—13.

Atlee.	Linn.
Burns.	Lloyd.
Goss.	Miller.
Gough.	Morriss.
Grinnan.	Sebastian.
Kerr.	Stafford.
Lewis.	

Nays—9.

Davidson.	Potter.
Greer.	Ross.
James.	Terrell.
Odell.	Yantis.
Patterson.	

Absent.

Dibrell.	Stone.
Hanger.	Turney.
Johnson.	Wayland.
McGee.	Yett.
Neal.	

Senator Patterson moved to excuse Senator Johnson for today and tomorrow on account of sickness in his family.

Lost by the following vote (requiring an affirmative two-thirds vote):

Yeas—11.

Atlee.	Linn.
Burns.	Miller.
Goss.	Morriss.
Grinnan.	Sebastian.
Kerr.	Stafford.
Lewis.	